



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**October 24, 2005**

**SUBJECT:** 2005-0646 – **Pulte Homes** [Applicant] **Tasman Limited**  
[Owner]: Application for related proposals on a 2.4-acre site located at 488 Tasman Drive in an M-S/ITR/R3/PD (Industrial and Service/Industrial to Residential/Medium-Density Residential/Planned Development) Zoning District.

Motion Special Development Permit to allow the construction of 43 townhomes,

Motion Tentative Map to subdivide one lot for the purpose of creating condominium units.

**REPORT IN BRIEF**

**Existing Site Conditions** One-story industrial buildings

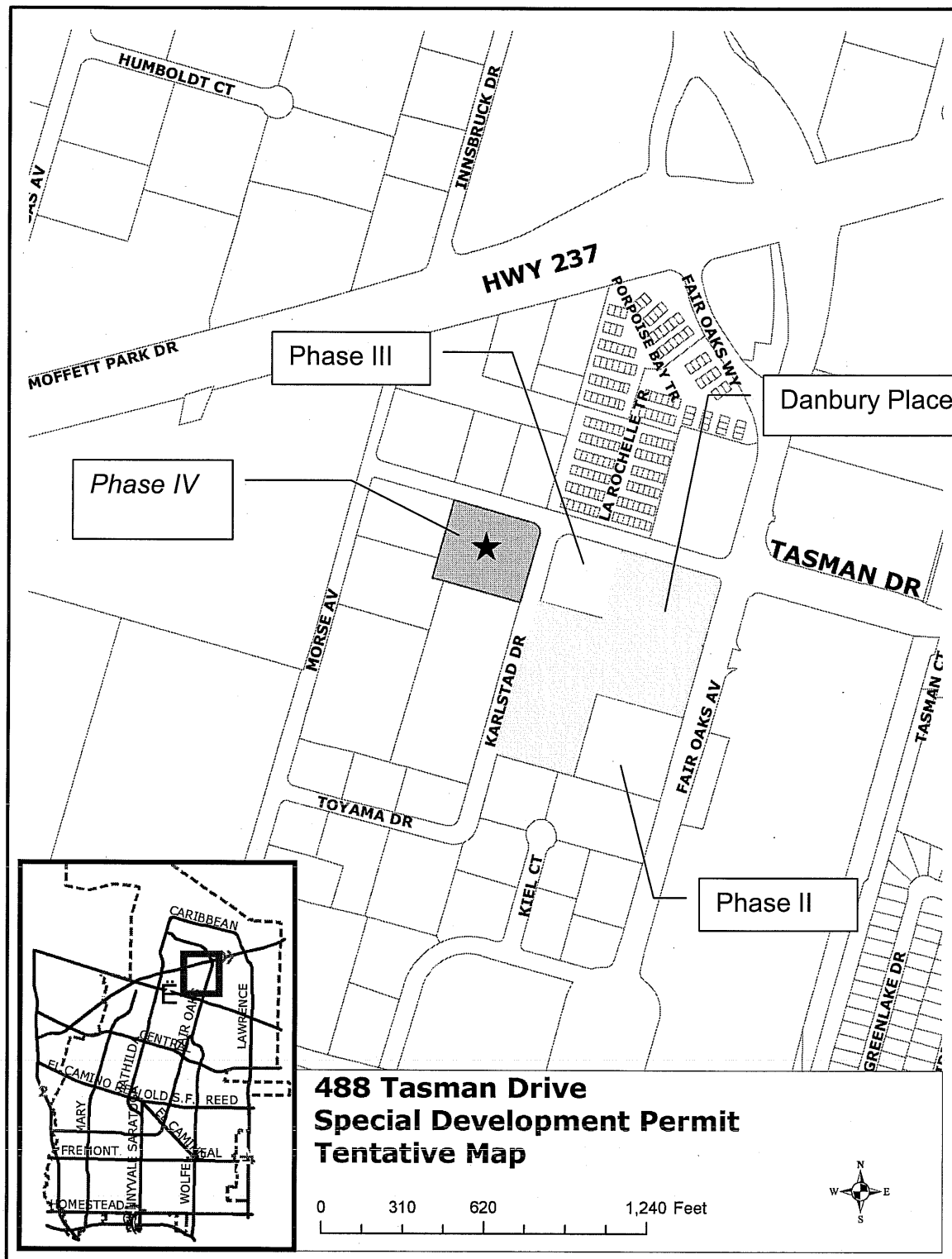
**Surrounding Land Uses**

North	Townhomes and a church
South	General Industrial, entitled for apartments
East	Danbury Place Townhomes
West	Approved for Townhomes

**Issues** Street frontage, landscaping, access

**Environmental Status** A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation** Approve with Conditions



**PROJECT DATA TABLE**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>General Plan</b>	Industrial to Residential  Medium to High Density	Same	Same
<b>Zoning District</b>	M-S/ITR/R3/PD	Same	Same
<b>Lot Size (s.f.)</b>	102,366	Same	8,000 min.
<b>Gross Floor Area (s.f.)</b>	40,000	90,228	No max.
<b>Lot Coverage (%)</b>	39%	33%	40 % max.
<b>Floor Area Ratio (FAR)</b>	39%	88%	No max.
<b>No. of Units</b>	N/A	43	56 max.
<b>Density (units/acre)</b>	N/A	18.3	24 max.
<b>Meets 75% min?</b>	N/A	79 %	75 % min.
<b>Bedrooms/Unit</b>	N/A	Plan 1- 2BD+bonus Plan 2- 3BD Plan 3- 3BD+bonus Plan 4- 4BD Plan 5- 4BD	N/A
<b>Unit Sizes (s.f.) excluding 2-car garage (garages 400-455 s.f.)</b>	N/A	Plan 1-1,480 Plan 2-1,575 Plan 3-1,632 Plan 4-1,705 Plan 5-2,103	N/A
<b>No. of Buildings On-Site</b>	1	7	By Use Permit
★ <b>Distance Between Buildings</b>	N/A	12-33	23' min.
★ <b>Building Height (ft.)</b>	N/A	43' 8" from grade 48' from curb	30' max.
★ <b>No. of Stories</b>	2.5 to 3	2.5 to 3	2 max.
<b>Setbacks (facing prop.)</b>			

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
• <b>Front (Tasman) (Ft)</b>	36	15 to patio; 19.5 to building; avg. 22	15 min. Avg. 20
• <b>Left Side (Ft)</b>	76	15 to patio; 20 to building	9' min. Karlstad
• <b>Right Side (Ft)</b>	76	10	6 avg.
• <b>Rear (Ft)</b>	67	14.5	20' min.
<b>Landscaping (sq. ft.)</b>			
• <b>Total Landscaping</b>	21,000	40,393	20,476 min.
• <b>Total Usable Open Space (sq. ft.)</b>	N/A	Estimated 16,600*	17,200 min.
• <b>Landscaping / Unit</b>	N/A	939	425 min.
• <b>Usable Open Space/Unit</b>	N/A	385	400 min.
• <b>Frontage Width (ft.)</b>	15	Tasman 6 Karlstad 4-15	15 ft. min.
• <b>Parking Lot Shading</b>	Est. 20%	5%	50% within 15 years
• <b>Landscaper Buffer (ft.)</b>	N/A	None	None required
<b>Parking</b>			
• <b>Total No. of Spaces</b>	145	111	111 min.
• <b>No. of Standards</b>	unknown	15	16 min.
• <b>No. of Compacts / % of total</b>	unknown	10	9 max.
• <b>No. of Accessible</b>	unknown	1	1 min.
• <b>No. of Covered Spaces</b>	N/A	86	336 min.
• <b>Driveway Aisle Width</b>	26	24'	24' min.
• <b>Bicycle Parking</b>	unknown	Storage within garage	1/15 unit min. Class 1

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

\* Applicant is not requesting deviation and is able to modify plans to meet standard

**ANALYSIS**

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**Description of Proposed Project**

The proposed project is the fourth development by Pulte Homes' in the Tasman Fair Oaks area. Although the project is linked by name and architecture, the development will not be part of the main Danbury Place Homeowners Association and will function independently of the previous three phases. The development includes 43 townhomes with identical floor plans to the previously approved Phase II and III with the same architectural style of Phase II.

**Background**

**Previous Actions on the Site:** The subject site has had no previous residential planning actions for the site. However, the project is connected to a previously approved non-Pulte project abutting the site to the east. The conditions of approval for Verona (to be built by Toll Brothers) requires coordination of a shared pedestrian walkway along the common property line of the two sites. Additionally the site is within the boundaries of the Tasman Fair Oaks Area Pedestrian and Bicycle Circulation Plan.

**Environmental Review**

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project with mitigation would not create any significant environmental impacts (see Attachment C, Initial Study). The required mitigation addresses potential noise impacts generated from road noise. The mitigation includes mechanical ventilation requirements and a variety of Sound Transmission Class (STC) rated windows for different areas of the project.

**Special Development Permit****Detailed Description of Use:**

The proposed architecture is the same as the previously approved Danbury Place designs. The proposed development's mix of units is a majority of four bedroom units. Plan 1 includes two bedrooms and a bonus room. Plan 2 has three bedrooms. Plan 3 has three bedrooms and a bonus room. Plan 4 and Plan 5 have four bedrooms. The project is required to provide five below market rate units. For the purpose of calculating parking, the bonus room configuration was counted as bedroom.

**Site Layout:**

The site is designed to have vehicular access exclusively from Tasman Drive with an internal looped private street providing access to the units. A second point of entrance was considered from Karlstad Drive but was removed due to grading and slope constraints for the site due to raising the site out of the flood plain. The Fire Marshall has accepted the plan and has not required a second access point.

The project has provided a significant number of pedestrian connections to the site. The proposed design includes four walkways out to Tasman Drive and one walkway to Karlstad. The internal circulation of the site provides for a walkway that runs around the east and south perimeter of the site with connection points to the internal open space square at the center of the site from both the east and west sides. The west walkway will be coordinated with the development to the west for shared walkway access.

The layout of the site has townhomes fronting the street with a parallel private walk along Tasman and direct walkup units presented to Karlstad. The perimeter of the site is also lined with units with front doors facing the perimeter of the site. The west units will be opposing other townhomes and the south facing units will be facing the future second phase of Tamarind Square Apartments. The boundary includes a substantial number of carport parking spaces on the Tamarind site. The subject site's design also includes a landscaped rectilinear area of 4,000 square feet that is bordered by townhomes on the north and south sides. The layout of the site does not permit view corridors from the streets into the central landscaped area, thereby relegating it to a private amenity status and not a focal point for the project design. Ability for townhome development to provide a focal point for the site varies with each project site.

The identifiable feature to the site layout is the retention of three significant mature ash trees along Tasman Drive to complement the street trees of the neighboring Verona site and two substantial redwood trees along Karlstad. The public streetscape with the mature trees and frontage improvements will provide character to the site.

*Stormwater Management:* This project is required to implement a post construction stormwater management plan as a Group I project. Due to soil composition the primary treatment mechanisms are in-ground mechanical devices and minor amounts of landscape infiltration.

*Easements and Undergrounding:* All existing and proposed utility services are required to be underground per the Zoning Code. A sidewalk easement will be required for the shared walkway along the west property line.

The following Guidelines were considered in analysis of the project site design.

<b>Design Policy or Guideline (Site Layout)</b>	<b>Comments</b>
<u>Citywide Design Guidelines</u> <i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The applicant has dispersed guest parking throughout the development with the majority of parking located along the Karlstad side of the project. The trash enclosures are also located in opposite corners of the site. The project includes multiple points of pedestrian access and includes a perimeter walkway around the site. However, this walkway does not connect all the way out to Karlstad.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>BD2 Try to maintain a well-defined street edge. BD 4 Provide direct entrances to street-level residential units to support an intimate streetscape.</i>	Walk up townhome entries are provided along Karlstad. Tasman frontage has parallel private sidewalks to address grade changes of the site and allow for the front doors to orient to the street. A landscaped setback of 10 feet along Tasman separates the private walk from the public sidewalk. Karlstad has a row of parking five feet from the property line.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 1 Private streets and driveways within development shall be designed for pedestrian use with sidewalks on a least one side.</i>	Multiple walkways extend into the site from both public streets. The internal streets do not include sidewalks on one side.

### **Architecture:**

The proposed architecture is a Federal/Georgetown style architecture used with the Danbury Phase II located along Fair Oaks Avenue. *(Phase II is approved but not built)* The design focuses on individual entryways, roof variability, and units colors to provide character for each unit rather than a uniform building design as was the case in the original Danbury architecture. The design will be contrasting to both the original Danbury Place design and simple stucco contemporary style of the abutting Verona development to the west. Each of the units includes a front patio area with a three-foot wall enclosing the patio. The overall height of the building will be as high as 48 feet due to the grading of the site up out of the flood zone. This height is the same as the original Danbury Place. Staff has included a condition of approval requiring final selection of exterior materials to be reviewed by the Director of Community Development to ensure appropriate colors, textures, and materials complement the exterior building materials and finishes. Spray on foam architectural treatments are restricted by a condition of approval due to its limited durability and lack of design character.

The following Guidelines were considered in the analysis of the project architecture.

<b>"Name of Guidelines"</b>	<b>Comments</b>
<u>Citywide Design Guidelines</u> <i>Bldg. Design B1. Break up large buildings into groups of smaller segments whenever possible to appear smaller in mass and bulk.</i>	The development includes breaks between buildings to provide walkway access. Side building façades are offset from front façade providing differentiation of building plane.
<i>Bldg. Design C1.2.2 Encourage development of diversified building forms and intensities.</i>	The design is differentiated from the original Danbury and adjoining development styles due primarily to the building form. However, the colors and treatments are the same as Phase II which will be located three blocks to the southeast on Fair Oaks Avenue.
<i>Bldg. Design C3. Develop a comprehensive architectural theme for multi-building complexes. Unify various site components through use of similar design, material and color.</i>	Each multi-unit building utilizes compatible materials and finishes. Each unit includes identifying characteristics to promote the individuality of the ownership units.
<i>Materials and Colors F4. Choose high quality materials and paint to prevent degradation and for ease of maintenance.</i>	The project includes a number of accent features including, stucco finishes and brick veneers, window trim, and shutters. Staff has included a condition to restrict use of spray on foam in preference to wood and other traditional building materials that provide interest and quality craftsmanship.
<i>Materials and Colors F5. Use wrought iron, cast iron, or high quality wood for decorative features and trims.</i>	

### **Landscaping:**

*Tree Preservation:* The site has a large number of trees located along the periphery of the site. The site has a total of 29 trees meeting protected tree status. Protected trees are those that measure 38 inches or greater in circumference when measured at four feet from the ground. However, due to site constraints of building the site up out of the flood plain and development footprints, only 2 of the on-site protected trees are retained and 27 trees are removed. The retained redwoods are located along the Karlstad frontage. In addition to the on site trees a substantial number of City street trees are also to be removed due to required sidewalks improvements. An additional 15 street trees are to be removed with 3 ash trees retained along Tasman Drive. City staff including the City Arborist have done an on-site inspection of trees and concurs with the feasibility of preservation of the street trees due to required sidewalk improvements, health of some of the trees, and potential future liability of potential property damage caused by street trees.

*Open Space:* The project design has roughly twice the required level of landscaped area in the plan at 40,000 square feet. However, due to location in



the site and dimensional constraints the project is currently below the required open space standard for the site at an estimated 16,000 square feet where 17,200 is required. The project has taken advantage of each unit's private porch area along with the large common open area in the center of the site, and miscellaneous areas internal to the site. However, the applicant was not able to include the perimeter walkway area as it does not meet the 12-foot minimum width dimensional requirement. Staff has also removed areas with significant grade differentials, such as the entry to the site, from the calculation. The applicant has not requested a deviation for usable open space at this time and staff has included a condition to requiring conformance. Staff believes the applicant has a couple of options in regards to sliding building footprints around to increase the dimensions of areas that are currently deficient in width allowing them to be used in the usable open space calculation.

**Parking Lot Landscaping:** The applicant is deficient in parking lot shading. The area required to conform is the parking lot at the southeast corner of the site. Due to landscape area width, grade changes and potential competition with street trees the applicant has not proposed trees bordering the site and as such has minimal shading of this area. Staff does not support the deviation for shading of this area and has included a condition requiring conformance. The applicant has an intention of changing the rear unit mix to widen the landscape area with the hope that shading can be provided. In a worse case scenario if the deviation is not granted a unit would need to be lost to allow for appropriate planter areas for trees to mature.

The following Guidelines were considered in analysis of the project landscaping.

<b>"Name of Guidelines"</b>	<b>Comments</b>
<u>Citywide Design Guidelines</u> <i>Landscaping A4 Properly landscape all areas not covered by structures, driveways and parking.</i>	The site significantly exceeds minimum landscape area standards. Modifications are required to meet tree shading standards for the parking lot area.
<i>A2 Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.</i>	Due to site conditions and building code requirements for fill to be added to the site, most trees are to be removed. Two on-site protected trees and 3 street trees can be retained.
<i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The project includes new street trees and landscaped areas along the perimeter of the site. The internal landscape area is not situated as a focal feature and provides internal private amenity space. The visual appeal for the project is focused on streetscape improvements.

**Parking/Circulation:** The project meets the minimum parking ratio for the proposed unit mix. The applicant has requested a deviation to allow for 10

compact spaces where 9 are permitted. Staff believes this deviation is acceptable and does not materially impact the layout of the site.

Staff has a concern about the parking lot in the southeast corner of the site. As previously discusses it is required to meet shading requirements, but additionally staff does have concerns with the appropriateness of the parking lot's proximity to the street and its limitation of not having a walkway connection from the perimeter path to Karlstad. As currently configured landscape screening can be introduced to shield the spaces but the intent of framing the streetscape is not met with its current location. Staff would support allowing a deviation of one parking space (loss of a compact space) to allow for the private walk to logically extend to Karlstad. The alternative for the site design is to redesign the site with the parking lot on the west side of the site and placing additional building fronting on Karlstad. Such an arrangement may result in the loss of a housing unit. Staff has not included a condition requiring reconfiguration of the parking lot away from Karlstad in this report. Staff would support a deviation reducing the parking by one space for the walkway extension.

The following Guidelines were considered in analysis of the project parking and circulation.

<b>"Name of Guidelines"</b>	<b>Comments</b>
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 3 Discourage the creation of isolated/walled complexes</i>	The design provides connectivity throughout to the street and will have shared access with the development to the west for pedestrians.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>BD2 Try to maintain a well-defined street edge.</i>	The project complies with this guideline with the exception of the parking lot for nine parking spaces at the southeast corner of the site along Karlstad.

**Compliance with Development Standards/Guidelines:** The application complies with a number of front yard building setbacks, but includes deviations for rear yard setbacks and building-to-building separation for one instance where a walkway splits a building. Deviations to height and stories are also requested. The design also includes a deviation to frontage landscape width where private walks and townhome entries minimize this area in an attempt to create a pedestrian friendly design. A parking deviation for one additional compact parking space is also requested.

Staff is not supporting a deviation for parking lot shading at the southeast corner of the site or for usable open space at a rate less than 400 square feet per unit. The applicant appears to have design options to meet both of these standards without have to lose a housing unit. If they cannot be met it is possilbe a unit would need to be removed to allow for conformance. The justifications for the deviations are primarily related to the creation of ownership housing, pedestrian design considerations, and an attempt to meet the minimum density General Plan guideline of 18 units per acre for the site.

*Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan:* The applicant is in compliance with the Tasman Fair Oaks Pedestrian and Bicycle Guidelines for development pattern and improvements. The site is identified to contribute to intersection enhancements. However, Phase III is also responsible for this intersection improvement and staff is including a condition for a partial contribution to additional neighborhood "sense of place" improvements that serve the whole of the neighborhood. This was noted in the previous Danbury reports as a potential option. The Transportation Division of Public Works is in the process of working through design enhancements for the neighborhood with a consultant to specify types of "sense of place" improvements. This work is likely to be done by early summer. Staff has included a condition to provide cash contribution at the rate established by the design work not to exceed \$1,000 dollars per unit with an allowance for credit from the proportional costs of doing the intersection enhancement improvements.

*TDM for Residential Development:* The applicant is also required to provide transit information kiosks on the site due to their proximity to the light rail station. Staff is recommending a minimum placement of one kiosk at a high activity point in the common area. Alternatively the information kiosk may be provided in the public right-of-way in accordance with the aforementioned sense of place design enhancements.

**Expected Impact on the Surroundings:** The area surrounding this site is designated as ITR (Industrial to Residential) and primarily has entitlement to redevelop to residential uses. The area overall is in the process of transitioning to residential. The current interim development pattern is disjointed throughout the area due to parcelization and individual property owner's discretion on pursuing residential development or maintaining an industrial use. This pattern creates potential conflicts for ongoing industrial uses with new residents. In this case there is an existing industrial building to the south that is expected to continue to operate despite entitlement to convert to residential uses. As standard practice a deed declaration within the CC&R disclosing abutting industrial uses is included as a condition of approval.

The impacts to the project residents are the potential for more vehicle traffic or truck traffic, potential noise, and other impacts from business operations as compared to a homogenous residential neighborhood. Through the Initial Study for CEQA review of this project and the Futures EIR of the early 1990s, no hazardous material problems were identified on the subject site or in relation to the adjacent industrial operations. This transition is consistent with the intent of the Futures study and specifically the existing ITR zoning.

An additional impact on the surrounding neighborhood relates to availability of recreational facilities. A site 1/4 mile to the southwest of the subject sites is owned by the City and planned to be a future 5-acre park. However, the park is currently listed as an unfunded capital project and does not have a targeted

improvement date. Including the proposed project, existing residents, and projects under construction in the area, the need for the park is increasing and City shall monitor the situation for appropriate action in the future to provide needed park services for the neighborhood planning area. At this time the neighborhood residents have access to the John W. Christian Greenway and Orchard Gardens Park, with connecting access to Lakewood Park to the east of the area. The proposed project is subject to park in-lieu fees to support the development or acquisition of additional park facilities.

### **Tentative Map**

**Description of Tentative Map:** The applicant's lotting pattern consists of larger lots for the seven main buildings for the purpose of creating condominium ownership of the townhomes. The project is required to provide street frontage improvements, including sidewalks, luminaries and street trees in conformance with the Tasman and Fair Oaks Pedestrian and Bicycle Plan. This also includes enhanced crossings for the Karlstad/Tasman intersection.

### **Fiscal Impact**

The project will contribute park in-lieu fees to the City in the amount of \$7,350.75 per unit for a total of \$316,082.25. This fee will be collected prior to the time of final map approval. The project will have no net increase in traffic per the Transportation Strategic Program standards and is not required to pay an impact fee.

No fiscal impacts other than normal fees and taxes are expected.

### **Public Contact**

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**Planning Commission Study Session:** A study session was held on January 9, 2006 to become acquainted with the application. Issues of concern brought up at the meeting were the potential deficiency of parking, color differentiation from Phase II, trash enclosure location, and parking lot shading. The applicant has been able to address the parking deficiency by providing additional parking spaces and has relocated a trash enclosure to the south side of the site for even distribution. The applicant has not been able to modify the plans to meet the shading requirement for the parking lot in the southeast corner of the site at this time. However, the applicant believes altering the unit mix by changing from the wider floor plan to a narrower plan for the rear row of units will provide enough room to provide adequate space for the planting of trees to meet this standard.

<b>Notice of Negative Declaration and Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 90 notices mailed to the property owners and residents within 300 ft. of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

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**Conclusion**

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**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Permit . Findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

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**Alternatives**

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1. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with attached conditions.
2. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions.
3. Adopt the Mitigated Negative Declaration and deny the Special Development Permit and Tentative Map.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

**Recommendation**

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Recommend Alternative 1

Prepared by:



Kelly Diekmann  
Project Planner

Reviewed by:

*FCR*  


Gerri Caruso  
Principal Planner

Reviewed by:



Trudi Ryan  
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Mitigated Negative Declaration
- D. Site and Architectural Plans

**Recommended Findings - Special Development Permit**

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1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the proposed project provides 43 additional housing units including 5 BMR units and eases the City's jobs/housing imbalance with the additional housing and replacement of employment producing land uses. The design is appropriate for providing compatible transition of use and a high quality living environment for its future residents. The project site is part of the Futures 7 Industrial to Residential conversion area which intends for the proposed type of residential use.

*Land Use and Transportation Element*

*Action Statement N1.4.2* Site higher density residential development in areas to provide transitions between dissimilar neighborhoods and where impacts on adjacent land uses and transportation system are minimal.

*Action Statement R.1.7.2* Support regional efforts which promote higher densities near major transit and travel facilities, without increasing the overall density of land usage.

Policy C2.2 Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.

*Housing and Community Revitalization Sub-Element*

Policy C.1 Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.

Goal D Maintain diversity in tenure, type, size and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

The proposed project will complement existing and entitled residential development of Danbury Place and neighboring new development. A condition of approval addresses a deed declaration to provide awareness of the areas transition from industrial to residential.

**Recommended Findings - Tentative Map**

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In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code



**Recommended Conditions of Approval - Special Development Permit**

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. Execute a Special Development Permit document prior to issuance of the building permit.
- B. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is approved prior to the expiration date.
- C. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building permit for this project and include annotated responses with the first building permit submittal on where each condition has been addressed.
- D. This Special Development Permit is valid only in accordance with the approved plans. Any major use, site or architectural modifications shall be treated as an amendment to the original approval, and shall be subject to approval at a public hearing before the Planning Commission. Minor modifications shall be approved by the Director of Community Development.
- E. Specific deviations allowed with this Special Development Permit are as follows:
  - a. Minimum lot size of for condominium purposes.
  - b. Parcels without public street frontage
  - c. Maximum height of 3 stories and 48 feet as measured from top of curb.
  - e. Minimum distance between buildings of 12 feet.
  - f. Frontage width of 5 feet along Karlstad Drive
  - g. Rear yard setback deviation of 14.5 feet
  - h. 10 compact parking spaces
- F. Prior to issuance of a building permit, provide a cash contribution towards sense of place improvements at the dollar amount established by the Transportation Division at a rate not to exceed \$1,000 per unit. If the design costs have not been established prior to the request for issuance of the building permit a fee of \$1,000 per units shall be provided. Credit may be received for proportional costs of the Karlstad intersection improvement.

- G. An Impervious Surface Calculation worksheet is required to be completed and submitted for the California Regional Water Quality Control Board prior to issuance of a Building Permit.
- H. A third party certified stormwater plan shall be submitted at the time of submittal for building permits. The plan is subject to approval by the Director of Community Development. The building permit improvement, landscape, and grading plans shall include a statement of no conflict from the certified stormwater engineer in accordance with an approved stormwater management plan.

## **2. ENVIRONMENTAL MITIGATION MEASURES**

- A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

*MITIGATION MEASURE #1: Mechanical ventilation systems are required for all units in the project to allow for each unit to be able to achieve the 45 db minimum interior noise level with closed windows. The ventilation system details and location are to be included on plans submitted for building permit issuance.*

*MITIGATION MEASURE #2: Include STC rated windows as indicated in the mitigated negative declaration. The window types shall be noted on the building permit plans for window schedules and on a site plan sheet showing areas requiring rated windows.*

## **3. BMR (BELOW MARKET RATE UNITS)**

- A. Comply with Below Market Rate Housing (BMR) requirements as noted in SMC 19.66.
- B. The project will provide 12.5% (5) Below Market Rate ownership dwelling units in compliance with SMC 19.66.
- C. The developer shall submit a site plan to the Housing Officer for review. The plan will include a description of the number, type, size and location of each unit on the site. The Housing Officer will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). (BMR Administrative Guidelines)
- D. Prior to issuance of a building permit, the developer shall execute a Development Agreement with the City to establish the units. The sale price of the BMR units is established at the time of the execution of the Development Agreement. (BMR Administrative Guidelines)
- E. All BMR dwelling units shall be constructed concurrently with non-BMR units, and shall be dispersed throughout the property and shall reflect the range in numbers of bedrooms provided in the total project and shall

- not be distinguished by exterior design, construction or materials. (SMC 19.66.020(c))
- F. Sixty days (60) days prior to the estimated occupancy date, the developer shall notify the Housing Division of the BMR units to be available. (BMR Administrative Guidelines)
  - G. BMR Ownership Program - Developer and Buyer to execute "Addendum to Purchase Offer" prior to Occupancy Permit and provide copy to City. (BMR Administrative Guidelines)
  - H. Ownership Units - Prior to Close of Escrow, a Deed of Trust between the City and the Buyer of the BMR unit shall be recorded to establish resale and occupancy restrictions for a 30-year period.
  - I. The original sale price of BMR dwelling units shall comply with sales prices established by the City, which is revised annually. (SMC 19.66.040 (c))
  - J. Below Market Rate dwelling units shall be offered for sale only to persons qualified under the terms described in SMC 19.66.040 and 19.66.050 and described more fully in the Administrative Guidelines. (BMR Rental Units / BMR Ownership Program)
  - K. Resale of BMR dwelling units shall comply with procedures set forth in SMC 19.66.060.
  - L. In the event of any material breach of the Below Market Rate Program requirements and conditions, the City may institute appropriate legal actions or proceedings necessary to ensure compliance. (SMC 19.66.140)
  - M. In the event that any of the Below Market Rate dwelling units or a portion thereof is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units. Grantee hereby covenants to cause the City of Sunnyvale to be named additional insured party to all fire and casualty insurance policies pertaining to said assisted units. (BMR Administrative Guidelines)

**4. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)**

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. Prior to approval of the final map the applicant shall prepare a deed declaration disclosing potential impacts from the adjoining industrial uses. The statement shall identify the uses are permitted to operate in perpetuity and associated impacts may include noise, truck traffic, night lighting, etc. The deed restriction language shall be submitted to the Director of Community Development and City Attorney for review and approval.

- C. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- D. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- E. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- F. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units in each individual phase, whichever comes first.
- G. The Conditions of Approval of this permit 2005-0644 Permit shall be included in the CC&Rs.
- H. The CC&Rs shall contain the following language:
  - 1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
  - 2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.

3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
8. Homeowners are prohibited from modifying drainage facilities and/or flow patterns without first obtaining permission from the City.
- I. There shall be provisions for post construction Best Management Practices in the CC&R's in regards to the final stormwater management plan and ongoing maintenance and reporting requirements.
- J. Prior to approval of the final map the applicant shall prepare a deed declaration disclosing potential impacts from the adjoining industrial uses. The statement shall identify the uses are permitted to operate in perpetuity and associated impacts may include noise, truck traffic, night lighting, etc. The deed restriction language shall be submitted to the Director of Community Development and City Attorney for review and approval.

- K. The Homeowners Association shall be required to maintain and keep up to date transit information and rideshare information for display in an on site kiosk. The display shall include current VTA transit map, Caltrain station map, contact info websites and phone # for Caltrain, VTA, [www.511.org](http://www.511.org), etc. A waiver of this condition can be requested by the applicant or homeowners association if "sense of place" improvements are provided adjacent to the site in accordance with the Fair Oaks/Tasman Plan.

**5. DESIGN/EXTERIOR COLORS AND MATERIALS**

- A. The plans shall be revised to be consistent with the Design Guidelines and development standards to provide the following:
1. The site plan shall indicate the location of mailboxes and transportation information display/kiosk. Kiosk display are to be included at high level of activity area. Provide detail on display design.
  2. End units shall include additional treatments of color and materials to increase interest. At a minimum treatments shall be included below the upper gables of the façade.
  3. The caps to the stairwells and patio walls shall be of solid construction material and include a smooth finish in contrast to the surrounding stucco finishes. Wrought iron is also acceptable as a patio wall finish.
  4. Foam trim shall be restricted in use to accent elements not traditionally used as wood or other finishes. Any foam base approved for use shall be of high density for durability. The final finish of any approved foam-based elements shall provide for a high level of craftsmanship in edging and detailing along with contrasting texture to identify a change of materials from the stucco wall finish.
- B. Roof material shall be 50-year warranty dimensional composition shingle or flat textured tile.
- C. Provide fire access roads with a minimum width of 20 feet and a minimum inside turning radius of 30 feet. (MC 15.52.190)

**6. EXTERIOR EQUIPMENT**

- A. Individual air conditioning units shall be screened with architectural or landscaping features.

**7. FENCES**

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. The front yard fencing along the public right-of-ways shall have an open design accentuated by columns with appropriate spacing to distinguish the edge of the property but at the same time maintain a soft edge for pedestrians.

- C. Wherever there is a grade differential greater than 12 inches, a concrete or masonry retaining wall shall be installed. Such a wall shall not be designed to infringe on the root system of protected trees on adjoining properties. Post and pier perimeter boundary walls may be required to ensure the protection of existing trees on adjacent sites.
- D. Fencing located along the south property line shall permit for retention of the significant trees on the abutting parcel to the south.

**8. LANDSCAPING**

- A. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit.
- B. Provide tree shading plan demonstrating compliance with parking lot shading requirements.
- C. Private usable open space plan demonstrating compliance with minimum dimensional and area requirements.
- D. Provide a planting schedule for all landscaping indicating species, type, size, and count.
- E. Provide dollar valuation of trees in the landscape plan equal replacement costs for the removal of protected trees.
- F. Landscaping and irrigation shall be installed prior to occupancy.
- G. Include decorative paving at driveway entries for a minimum of 15 feet.
- H. Provide separate meter for domestic and irrigation water systems.
- I. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- J. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- K. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size. This requirement is in addition to tree planting requirements for the removal of protected trees.
- L. Any "protected trees", (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size. The specimen trees are to be of a large species.
- M. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- N. Landscaping and decorative walls shall be included around parking areas in an attempt to obscure their appearance from public streets.

- O. All areas not required for parking, driveways or structures shall be landscaped.

**9. TREE PRESERVATION**

- A. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, include the approved tree protection plan in the plan set.
- B. Trees on adjacent property that extend over the property line are to be included on the tree protection plan. Perimeter wall construction shall take protection of off site tree roots into design consideration.
- C. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.
- D. The tree protection plan shall remain in place for the duration of construction.
- E. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

**10. LIGHTING**

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
  - 1. High pressure Sodium vapor or other illumination with an equivalent energy efficiency shall be included in the common areas.
  - 2. Pole heights to be uniform and compatible with the existing Danbury Place. Light standards shall be of a pedestrian scale and Bollards may be utilized throughout the site for lighting.
  - 3. Provide photocells for on/off control of all security and area lights.
  - 4. All exterior security lights shall be equipped with vandal resistant covers.
  - 5. Lights shall have shields to prevent glare onto adjacent residential properties and to the internal townhomes.
- B. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development.

**11. PARKING**

- A. All uncovered spaces shall be reserved as guest parking spaces and shall be so designated prior to occupancy.
- B. No uncovered parking space shall be offered for rent by the property owners or homeowners association.



- C. Garage spaces shall be maintained at all times so as to allow parking of two automobiles.
- D. Specify compact parking spaces on the Building Permit plans. All such areas shall be clearly marked prior to occupancy, as approved by the Director of Community Development.
- E. Unenclosed storage of any vehicle intended for recreation purposes, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.

**12. BICYCLE PARKING**

- A. Provide a minimum of 3 guest parking spaces of Class II per VTA Bicycle Technical Guidelines as approved by the Director of Community Development.

**13. RECYCLING AND SOLID WASTE**

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building and is subject to review and approval by the Director of Community Development.
- D. The enclosure shall be of masonry construction complimentary to the main building architecture. The design shall include decorative tops to shield view from upper floors of nearby housing units.

**14. UNDERGROUND UTILITIES**

- A. All existing and proposed utilities shall be undergrounded.

**15. TENTATIVE MAP CONDITIONS**

- A. Record a sidewalk easement for the shared walkway along the west property line. Final language for the easement is subject to review and approval by the Director of Community Development and City Attorney.
- B. Dedicate land along Tasman Drive to provide for sidewalks in compliance with the Tasman and Fair Oaks Area Pedestrian and Bicycle Circulation Plan.
- C. Full development fees shall be paid for each project parcel or lot shown on Final Tract Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- D. Comply with all applicable code requirements as noted in the Standard Development Requirements.
- E. All existing utility lines and /or their appurtenances not serving the project and/or have conflicts with the project, shall be capped,

abandoned, removed, relocated and/or disposed to the satisfaction of the City.

- F. Individual utility service metering shall be provided to each unit.
- G. Obtain necessary permits from the Department of Public Works for all off-site improvements including utility line extensions, utility connections, meter locations, driveways, sidewalks, etc.
- H. Pay Park In-lieu fees of \$316,082.25 (\$7,350.75/unit) for 43 units, prior to approval of the Final Map. Payment for each phase's final map is permitted.(SMC 18.10)
- I. Dedicate private streets as emergency vehicle ingress-egress easements.
- J. A Private street name of Kassel Terrace has been assigned to the private street.
- K. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.
- L. Construct new sidewalk, curb, and gutter along with the enhancement of the Karlstad Drive intersection crossing in accordance with requirements of the Transportation and Traffic Division.
  - a. Street frontage improvement require a 10-foot sidewalk along Tasman Drive and Karlstad Drive.
  - b. Luminaries and street tree grates are to be installed per design standards of the Fair Oaks and Tasman Pedestrian and Bicycle Circulation Plan.
  - c. Luminaries shall include an internal louver around the bulb or equivalent feature to direct lighting downwards. This detail shall be indicated on improvement plans.